IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.58 of 1991
Date of decision:30.10.2006

The Commissioner of Income tax, Rohtak

....Petitioner

versus

Shri Virender Natha Kataria, Railway Road, Panipat.

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Yogesh Putney, Advocate, for the revenue.

JUDGMENT:

Following question has been referred for opinion of this Court by the Income Tax Appellate Tribunal 'B' Bench, New Delhi (for short, 'the Tribunal) arising out of its order dated 30.11.1990 in ITA No.3426/Del./1988, in respect of assessment year 1979-80:-

> "Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal, was right in holding that the assessee-HUF will be entitled to exemption under section 54 B(1) of the Income Tax Act, 1961?"

Learned counsel for the revenue relies upon judgment of the Madras High Court in **CIT v. R.Vijayakumar**, (1995) 214 ITR 483, holding that provision of Section 54B of the Income Tax Act, 1961 (for short, 'the Act') was not available to HUF and was available only to an individual. Reliance was also placed on its earlier judgment in **CIT v. GK Devarajulu,** (1991) 191 ITR 211.

We find that an identical issue has already been gone into by

this Court in **Raghunath Dass Sethi v. CIT,** (2005) 277 ITR 341, wherein following the judgment of Delhi high Court in **CIT v. KC Sahni (HUF)**, (2000) 246 ITR 299, it was held that prior to amendment in the year 1988, the benefit of Section 54 of the Act was not available to the assessee, which is HUF. Similar view has been expressed by various High Courts in **Kanhyalal and Ramswaroop v. CIT**, (1984) 149 ITR 157 (MP), **Shrigopal Rameshwardas v. Addl.Commissioner of Income Tax, MP**, (1979) 119 ITR 980 (MP), **Smt.Rampyaribai Narayandas v. CIT, MP,** Bhopal, (1984) 147 ITR 223 (MP), **Anam Venkata Krishna Reddy v. CIT,** (1988) 172 ITR 425 (AP), **Ravindra Gunvantlal Shah v. CIT,** (1994) 208 ITR 995 (Guj.) and **Pravin Chand Mohin Kumar v. CIT,** (1994) 208 ITR 11 (Raj.).

Concurring with the view already expressed by this Court in **Raghunath Dass Sethi**'s case (supra).

None appears for the assessee.

Following the above view, we answer the question in favour of the revenue and against the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

October 30, 2006 (Rajesh Bindal)
'gs' Judge